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DOC #:

DATE FILED: 3/14/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Scrimshaw
MEMO ENDORSED

-----X
SCHMI CABALLERO,

Plaintiff,

-against-

THE CITY OF NEW YORK, CORRECTION OFFICER
ROSEMARY CONGRESS (Shield 1561),
CORRECTION CAPTAIN CLAUDE GODFREY
(Shield 593), CORRECTION OFFICER JUAN
GARCIA (Shield 7094), CORRECTION OFFICER
ROCHELLE PENNANT (Shield and JOHN & JANE
DOES 1-10,

Defendants.

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISCONTINUANCE**

07 Civ. 6357 (RMB)

-----X
WHEREAS, plaintiff commenced this action by filing a complaint on or about
July 12, 2007, alleging that defendants violated his federal civil and state common law rights;
and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's
allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation,
without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by
and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed with prejudice, and
without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. Defendant City of New York hereby agrees to pay plaintiff Schmi Caballero the total sum of NINETY SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$97,500) in full satisfaction of all claims, including claims for costs, expenses and attorney fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all the claims against the City of New York and to release the City of New York, the individually named defendants Rosemary Congress, Rochelle Pennant, Claude Godfrey and Juan Garcia, and any present or former employees or agents of the New York City Department of Correction and the City of New York, from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to defendants' attorney all documents necessary to effect this settlement, including, without limitation, a release based on the terms of paragraph "2" above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by any of the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation and settlement shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York.

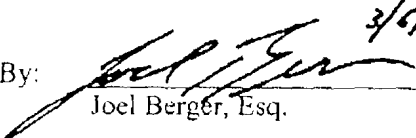
6. This Stipulation and Order contains all the terms and conditions agreed

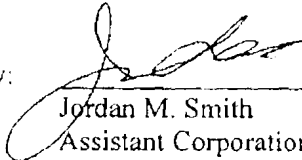
upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
March 5, 2008

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MICHAEL A. CARDOZO
Corporation Counsel of the
Attorney for Defendants
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(212) 788-0869

By:  3/5/08
Joel Berger, Esq.

By: 
Jordan M. Smith
Assistant Corporation Counsel

SO ORDERED:


U.S.D.J.

